

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NAZIM UDDIN ROKI, :
Plaintiff, : Civil Action No.:
- against - :
UBER TECHNOLOGIES, INC., UBER USA, LLC, :
ZWANZIG-NY, LLC, and IBRAHIM ASURU, :
Defendant(s). :
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Defendants-Petitioners, UBER TECHNOLOGIES INC., UBER USA, LLC, and ZWANZIG-NY LLC, file this notice to remove the foregoing case to the United States District Court for the Eastern District of New York, and respectfully shows this Court:

1. UBER TECHNOLOGIES INC., UBER USA, LLC, and ZWANZIG-NY LLC, are defendants in the civil action brought on or about January 13, 2020, in the Supreme Court of the State of New York, Kings County under Index Number 500912/20. (See **Exhibit “A”**). Pursuant to the provisions of 28 U.S.C. § 1441 and 28 U.S.C. §1446, UBER TECHNOLOGIES INC., UBER USA, LLC, and ZWANZIG-NY LLC remove this action to the United States District Court for the Eastern District of New York, which is the judicial district in which the action is pending

2. This is a civil action sounding in negligence seeking damages to recover for the alleged personal injuries of plaintiff NAZIM UDDIN ROKI as a result of a motor vehicle accident that occurred at or near 1029 Avenue of the Americas, New York, New York, on August 24, 2019.

3. On March 12, 2020, defendant UBER TECHNOLOGIES INC. filed an answer to the complaint. (See **Exhibit “B”**). On March 12, 2020, defendant UBER USA, LLC filed an

answer to the complaint. (See **Exhibit "C"**). On March 12, 2020 defendant ZWANZIG-NY, LLC filed an answer to the complaint. (See **Exhibit "D"**). On March 18, 2020, defendant IBRAHIM ASURU filed an answer to the complaint (See **Exhibit "E"**).

4. On March 9, 2020, defendants UBER TECHNOLOGIES INC., UBER USA, LLC, and ZWANZIG-NY LLC served upon plaintiff, a demand pursuant to CPLR § 3017(c), requesting plaintiff to serve a supplemental demand for relief setting forth the total damages to which he deems himself entitled. (See **Exhibit "F"**). On August 17, 2020, plaintiff responded to this demand, which stated said amount was \$250,000.00 (See **Exhibit "G"**).

5. The parties to this action have complete diversity of citizenship in that: (a) plaintiff NAZIM UDDIN ROKI is now, and was at the time said action was commenced, a resident and domiciliary of the State of New York; (b) the defendant IBRAHIM ASURU, is now, and was at the time said action was commenced a domiciliary of the State of New Jersey; and (c) defendants UBER TECHNOLOGIES, INC., UBER USA, LLC, and ZWANZIG-NY, LLC were at the time said action was commenced, organized in and by the State of Delaware with their principal places of business in San Francisco, California.

6. This action was commenced on January 13, 2020. Defendants-Petitioners were served with the Summons and Verified Complaint by way of service on their designated agent authorized to accept service on January 16, 2020.

7. Upon information and belief, the co-defendant IBRAHIM ASURU was served with the Summons and Verified Complaint by way of personal service on February 17, 2020.

8. Since no amount of damages was specified in the complaint in order to intelligently ascertain removability, the defendant-petitioner served a CPLR § 3017 demand upon the plaintiff on March 9, 2020. (**Exhibit "F"**)

9. Because the plaintiff did not respond to the defendants-petitioners' demand within the fifteen (15) days set forth in CPLR § 3017(c), the defendants-petitioners were forced to file a Motion to Compel plaintiff to provide a response.

10. The plaintiff responded with an Amended Response to Demand Pursuant to CPLR § 3017(c), dated August 17, 2020, demanding \$250,000.00 to resolve this controversy. (Exhibit "G")

9. No proceedings have occurred in the state court action. The Summons and Complaint, Answers, Defendants' Demand Pursuant to CPLR § 3017(c), Defendants' Motion to Compel, and Plaintiff's Amended Response to Demand Pursuant to CPLR § 3017(c) constitute all the process, pleadings and paper concerning the state action to date.

10. This action is one in which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is complete diversity of citizenship between the plaintiffs and defendants and the amount in controversy exceeds \$75,000.

11. This application is filed within thirty (30) days of receipt by defendant-petitioner of the Amended Response to Demand Pursuant to CPLR § 3017(c). Pursuant to the authority of *Cazaubon v. Korean Airlines Co.*, 2007 U.S. Dist. LEXIS 40080 (EDNY 2007); *DeMarco v. MGM Transp.*, 2006 U.S. Dist. LEXIS 10121 (SDNY 2006) and *Setlock v. Renwick*, 2004 WL 1574663 (WDNY 2004), the Plaintiff's Amended Response to Demand Pursuant to CPLR § 3017(c) constitutes the "other paper" that 28 U.S.C. § 1446(b) recognizes as an alternative starting time for the 30-day removal period. Accordingly, this petitioner is timely brought.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to counsel for all adverse parties and a copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of New York, Kings County.

Dated: White Plains, New York
September 15, 2020

Yours, etc.,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

By: _____

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